

**BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL**

<b>IN RE: APPLICATION 96-1</b>	)	
	)	
<b>of</b>	)	<b>EXHIBIT NO. TRW-T</b>
	)	
<b>OLYMPIC PIPELINE COMPANY</b>	)	
	)	
<b>CROSS-CASCADE PIPELINE PROJECT</b>	)	
-----	)	

**PREFILED DIRECT  
TESTIMONY OF:**

**TERRANCE R. WILLIAMS**

**ISSUES:**

**TULALIP TRIBES' FISHING RIGHTS,  
INTERESTS AND FUNCTIONS**

**SPONSOR:**

**THE TULALIP TRIBES**

***Q: Please introduce yourself to the Council with your name, business address, and your position with The Tulalip Tribes.***

A: My name is Terry R. Williams. My business address is Tulalip Natural Resources, 7615 Totem Beach Rd., Marysville, WA 98271. My title in connection with my work for the Tulalip Tribes is: Executive Director of Fisheries and Natural Resources.

***Q: Please describe your personal and professional qualifications as they relate to your testimony.***

A: Please see my attached resume (**Exh. TRW-1**) for my background in fisheries and natural resources. I am also an enrolled member of the Tulalip Tribes and as such am qualified to testify to cultural and economic issues as they relate to the Tribes and its enrolled members.

As Executive Director of Fisheries and Natural Resources for the Tulalip Tribes, I manage and direct the work of approximately 19 tribal employees in the areas of Fisheries Management, Harvest Management, Habitat Management, Cultural Resources Protection, and Environment (air, land and water). For a more thorough description of my background and qualifications, please see my resume, attached.

***Q: What is the general subject of your testimony?***

A: The social and cultural significance of salmon and fishing to the Tulalip Tribes, and the Tribes' fisheries and natural resource management and enhancement efforts.

***Q: Please briefly describe The Tulalip Tribes terms of its legal and anthropological history.***

A: The ancestors of the present day Tulalip tribal members inhabited the Stillaguamish and Snohomish river valleys and the shores of Puget Sound at least since the time of the last glacial retreat 10,000 to 15,000 years ago. The members of the Snohomish, Snoqualmie, Skykomish, and other tribes had winter villages on Whidbey and Camano Islands, the mainland shore near the mouth of the Snohomish River, and in the river valley. Then, as now, these tribes relied for sustenance on harvest of Puget Sound fish (including shellfish) resources. Historically, clam digging camps were set up in the spring season near productive clam beds in the bays and islands. During summer periods, some tribal members traveled as far north as present-day Vancouver and as far south as present-day Seattle in pursuit of highly migratory salmon runs. In the fall the abundant salmon runs returning to the Snohomish River system provided food for the winter villages.

The lives of the people were profoundly changed 144 years ago with the signing of the Treaty of Point Elliott between the United States and the tribes. In the treaty, the tribal leaders gave up all of the land from the Canadian border to the

Green River south of Seattle. In return they received small monetary compensation and a promise of support from the United States government. They specifically reserved in treaty the right to “fish at usual and accustomed grounds and stations” and to “hunt and gather berries and roots on all open and unclaimed lands.” Several reservations were set aside in the treaty. After congressional and presidential approval of the treaty, the members of the Snohomish, Snoqualmie, Skykomish and allied tribes and bands came to the Tulalip reservation in accordance with the treaty promise and organized as a single reservation tribal government.

The Tulalip tribal government held elections in 1930 under the guidance of the Bureau of Indian Affairs. After the passage of the Indian Reorganization Act in 1934, 48 Stat. 987, 25 USC § 476, the Tulalip Tribes adopted a constitution which provides the legal framework for the tribal government that exists today. *United States v. Washington*, Compilation of Major Post-Tribal Substantive Orders, 459 F.Supp. 1020, 1039.

***Q: Please briefly describe the origin and location of the Tulalip reservation and its demographics.***

**A:** The Tulalip reservation was established pursuant to the Treaty of Point Elliott (12 Stat. 927), by Executive Order of December 23, 1873, as subsequently approved by Congress and the President. The reservation is located approximately five miles north of the city of Everett, Washington. It is bounded on the east by

interstate Highway 5, to the south by the Snohomish River (Steamboat Slough) and Port Gardner, and to the west by the Puget Sound. The present-day reservation encompasses approximately 23,000 acres. There are approximately 3000 enrolled tribal members, most of whom live on or near the reservation. Although some tribal economic development initiatives have provided increased employment opportunities for tribal members in recent years, many tribal members and their families living on or near the reservation rely for their employment and livelihood on commercial fishing and fishing rights related activity.

***Q: Please briefly describe the treaty-reserved fishing rights of The Tulalip Tribes.***

**A:** Article 5 of the Treaty of Point Elliott states:

The right of taking fish at usual and accustomed grounds and stations is further secured to said Indians in common with all citizens of the Territory and of erecting temporary houses for the purpose of curing, together with the privilege of hunting and gathering roots and berries on open and unclaimed lands. Provided however that they shall not take shell-fish from any beds staked or cultivated by citizens.

The federal courts have interpreted this language to mean that the tribes collectively have the right to an opportunity to harvest up to one-half of the harvestable amount of the fish resource. *U.S. v. Washington*, 459 F.Supp. at 1039, 1058-60; *United States v. Lummi Indian Tribe*, 626 F.Supp. 1405, 1527, aff'd, 841 F.2d 317 (9th Cir. 1988). The right to take fish reserved by the Treaty of Point Elliott is a "communal property right" held by a tribe for the benefit of its

members. *U.S. v. Washington*, 520 F.2d at 688. For salmon and steelhead, in particular, the tribal allocation is based on the annual harvestable amount determined river-by-river, or by aggregates of rivers and separately for each species of salmon. Further, the court determined that the tribes have the right to manage the fishing activities of their own members in terms of the times and places of fishing, subject to overall restrictions necessary for the conservation of the resource. The tribes share co-management responsibilities with the state of Washington, and in 1985 the parties agreed on the Puget Sound Salmon Management Plan which governs, among other things, the basis for determining the harvestable amount of each stock of salmon, the design of hatchery programs, collection and coordination of data, and the like.

***Q: Where are The Tulalip Tribes usual and accustomed fishing places?***

**A:** The Tulalip Tribes enjoy both marine and freshwater fishing areas reserved by treaty, as that treaty has been interpreted in a series of federal decisions. Marine waters generally include all open marine waters from the Canadian border near Point Roberts, south to the northern boundary of Vashon Island south of Seattle. They also include the eastern Strait of Juan de Fuca to a line extended north from Protection Island, and Port Gardner Bay, Port Susan Bay, and Tulalip Bay. In *U.S. v. Washington*, the marine areas were defined as follows:

Beginning at Admiralty Head on Whidbey Island and proceeding south, those waters described as Admiralty Bay and Admiralty Inlet, then southeasterly to include the remainder of Admiralty Inlet including Mutiny

and Useless Bay, then northeasterly to include Possession Sound and Port Gardner Bay, then northwesterly to include the waters of Port Susan up to a line drawn true west of Kyak Point and Holmes Harbor and Saratoga Passage up to a line drawn true west of Camano on Camano Island.

459 F.Supp. at 1059.

The freshwater areas were defined as including the Snohomish River system, including forks, tributaries and freshwater lakes, and the Snoqualmie and Skykomish River systems. *U.S. v. Washington*, 459 F.Supp at 1060; *U.S. v. Washington*, 626 F.Supp at 1531. Although the Tribes only rarely open the freshwater areas to tribal fishing, they provide vital habitat for several species of anadromous fish which are harvested in U&A areas by the Tulalips.

**Q:** *Please describe The Tulalip Tribes' fishery.*

**A:** Tulalip tribal members harvest finfish and shellfish for commercial, recreational and ceremonial purposes. The harvest focuses primarily on anadromous fish (mainly salmon and steelhead) that pass through the Tulalip Tribes' treaty-reserved U&A fishing areas.

The Tulalip Tribes manages fisheries for salmon and steelhead as well as many shellfish and marine fish species. The Tulalip fisheries department licenses seven types of commercial gear for salmon and steelhead fisheries: marine gillnets, skiff gillnets, beach seines, purse seines, roundhulls, set gillnets, and trollers. In addition, the Tulalip tribes manage fisheries for crab (subsistence and commercial), shrimp (subsistence and commercial), clams, and oysters

(subsistence only), sea urchins (commercial), geoduck (commercial) and sea cucumbers (commercial) under the recently-affirmed federal district court's shellfish rulings. See *U.S. v Washington*, No 96-35196 (9<sup>th</sup> Cir., Sept. 1998).

Legal gear types are defined for reference and enforcement purposes each year in the annual general fishing regulation, which is approved by the Tulalip Board of Directors. The vessels and gear of the Tulalip fleet are individually owned and fished by tribal members. The Tulalip Tribes do not allow rental or lease boats, and non-members of the tribe are not allowed to fish under the tribal fishing right, except for the special family assistance provision of the Tulalip Fishing Ordinance.

Currently, the principal commercial salmon fisheries of the Tulalip Tribes include the sockeye fishery in the San Juan Islands in the summer, the coho and chum fisheries in Port Gardner/Port Susan in the fall, the chinook, coho, and chum fisheries in Tulalip Bay in the fall, and the coho and chum fisheries in south Puget Sound in the fall. Except for the sockeye fishery, which targets fish returning to the Fraser River in Canada, these fisheries are largely supported by hatchery-produced fish. Declines in natural salmon production have greatly reduced the availability of salmon harvest to Tulalip tribal members in Port Susan/Port Gardner and the Snohomish River system. Due to declines in salmon runs, the tribe has not opened the previously important fishery directed at wild chinook salmon since 1984 and has rarely opened fishing in the Snohomish River proper directed at any species.



Tulalip also opens a culturally important, if numerically small, ceremonial and subsistence fishery directed at hatchery-produced spring chinook salmon returning to Tulalip Bay. This hatchery run was started to make up for the Snohomish spring chinook run which historically provided an important fishery but which is not currently available for harvest by Tulalip tribal members. The steelhead fishery, conducted from December through February, is currently a subsistence-only fishery in fact, although commercial sales are allowed. Ceremonial and subsistence fishing for salmon also occurs during all of the commercial fisheries described above.

Several commercial shellfisheries have become important to tribal members over the past several years. These include fisheries for crab in the Port Gardner/Port Susan area and in the San Juan Islands and a shrimp fishery in the Port Gardner/Port Susan area. Several tribal members began fishing for geoducks in the South Puget Sound beginning in 1998. Although these fisheries provide a good source of income for a few tribal members, the available quantities of these resources are not sufficient to provide commercial fishing income to the number of people that could be supported by strong salmon runs.

**Q:**     *Please describe the interest of The Tulalip Tribes in relation to the Cross-Cascade Pipeline proposal?*

**A:**     The Tulalip Tribes' interest in the Cross-Cascade pipeline proposal stems from the treaty-reserved right to fish, which can be regarded as a property right. Actual

and potential environmental impacts from this project will substantially diminish the productivity of the fish and thus the property right of the Tulalip Tribes in the salmon runs in the Snohomish River system.

**Q:** *Please describe whether, historically, the tribal harvest has increased, remained constant, or has declined, and the status of the salmon stocks utilizing the Snohomish basin today.*

**A:** After the Boldt Decision in 1974, the harvest of salmon by the Tulalip Tribes steadily increased as tribal members increased their share of the harvest to the legal level. In 1989 Tulalip members harvested over 550,000 salmon. Since then the harvests have declined, and in 1996, only 100,000 salmon were harvested by Tulalip. Furthermore, since 1990 Tulalip tribal harvests have been concentrated more and more on hatchery-produced fish because of the need to reduce harvest rates on wild fish. While this type of management has helped to preserve wild salmon stocks, it has resulted in a decline in the quality of the fish harvested (and consequently in the price the fisherman is paid) and a decline in the range of opportunities afforded to tribal members.

The status of the salmon stocks utilizing the Snohomish basin today is not as good as it was 50 years ago. The individual stocks in the basin have been delineated by the state and tribal co-managers as described in the 1992 Salmon and Steelhead Stock Inventory (SASSI). In that document, the status of the stocks is described

in terms of their spawning escapement levels, which does not account for reductions in harvest. So, for example, if a stock has maintained a steady pattern of spawning escapements, SASSI might consider the stock to be “healthy”.

However, if a formerly good fishery on the stock has been eliminated, then the stock is clearly not healthy from the point of view of Tulalip tribal members.

Of four natural chinook salmon stocks in the Snohomish system, none are “healthy”. All four have not yet shown strong signs of rebuilding despite greatly reduced fishing rates. Of four coho salmon stocks in the system, one is deemed “depressed” by SASSI and one other has shown a decline in spawners, again in the face of greatly reduced fishing rates. Pink and chum salmon stocks in the system are currently healthy, although production is variable. Wild winter steelhead stocks in the system are currently healthy. At one time these stocks were depressed, but this situation was reversed due to changes in harvest management guidelines, which are still in place. Summer steelhead stocks in the system are not very productive despite virtually zero harvest on them.

**Q:** *Please describe the present day importance of the fisheries resource to The Tulalip Tribes.*

**A:** The Point Elliott treaty tribes (including the Tulalip Tribes) share "a vital and unifying dependence upon anadromous fish." *Washington v. Fishing Vessel Association*, 443 U.S. 658, 664 (1979). The fisheries are of "vital importance" to

them. Id. at 666. These rights are "not much less necessary to the existence of the Indians than the atmosphere they breathed." *United States v. Winans*, 198 U.S. 371, 380-81 (1905).

Salmon fishing has always been an important component of the religion, culture and economy of the Tulalip Tribes. The entire culture and way of life of the members of the Tulalips' predecessor tribes developed around the annual cycles of natural resources, especially the salmon. The salmon harvest, in particular, is critical for tribal members' diet, economy, religion, and many other aspects of culture. Both historically and in recent times, salmon have provided significant components of the diet of Tulalip tribal members, including proteins, fats, vitamins, and minerals. Even with reduction or elimination of commercial harvest opportunity, subsistence harvest of salmon remains very important. However, due to lost production in recent years, even subsistence harvest opportunity has been severely reduced. As a result, tribal members increasingly rely on commercial sources of food and basic nutrients. This shift in diet has been cited as a cause of increased incidence of diseases such as diabetes, heart disease, and cancer among tribal members.

Historically and currently, salmon are essential to Tulalip tribal religious practices. First Salmon Ceremonies are conducted by the Tribe and by individual families. These ceremonies require that harvestable numbers of salmon be available in the vicinity of the Snohomish River each spring. Salmon, shellfish,

other fish, and wildlife are necessary to properly conduct important ceremonies in Tulalip culture. Among other events, these include: weddings, funerals, family gatherings, potlatches, and traditional longhouse ceremonies. One goal of the Tulalip Salmon Resource Management Plan is to assure that salmon and other resources will be available year round for these important ceremonial activities. Fishing, hunting, and gathering activities are important for the social well being of many Tulalip tribal members. This is shown by the fact that many tribal members fish even when it is not economically profitable to do so. However, when the opportunities to fish have become diminished, as in recent years, social problems have increased among tribal members. Restoration of salmon productivity is critical to elimination of many of the social problems through restoration of predictable, regular fishing opportunity.

***Q: What is the cultural importance to The Tulalip Tribes of maintaining and enhancing fisheries habitat from further degradation?***

**A:** Above I have described the decline in historic fish harvest levels, that the decline has been dramatic between 1989 to 1996, that Tulalip tribal harvests have concentrated on hatchery-produced fish because of the need to reduce harvest rates on wild fish, and that the quality of the harvest is reflected in a decline in fishermen's income and in economic opportunities afforded to tribal members. I have also described the role of the salmon in traditional weddings, funerals,

family gatherings, potlatches, and longhouse ceremonies, and that fishing, hunting, and gathering opportunities are important for the social well being of many Tulalip tribal members. Prevention of wild fish harvest declines through maintaining and enhancing fish habitat will be critical to the success of efforts to combat the negative economic, cultural and social effects of reduced fishing at Tulalip.

Spiritual bathing is also an essential cultural practice for many Tulalip tribal members. Proper spiritual bathing requires that clean water be available in a variety of traditional bathing sites, including many throughout the Snohomish watershed. Clean, pure water is essential for spiritual bathing, and any contamination of this water with oil or other pollutants would render large areas unfit for spiritual bathing.

***Q: Please describe the cumulative impacts from development in the Snohomish basin that have affected the fishery resource and habitat.***

**A:** Salmon production is affected by a number of factors. Each of these, taken alone, may only have a small effect on production, but acting together, their combined effects can be significant. The cumulative effects of many negative impacts can add up to a large loss in the potential for salmon production.

For the Snohomish system in particular, chinook salmon production is affected by a plethora of environmental impacts. They act at every stage of salmon life

history. Survival rates of eggs are reduced by increased frequency of floods caused by land use changes, and increased rates of sedimentation caused by poor logging and development practices. Survival rates of juvenile chinook salmon are reduced by elevated water temperatures caused by loss of tree cover throughout the watershed. Survival rates of juveniles migrating to saltwater are reduced by pollution, bulkheads, and shoreline modifications in the lower river and along the shores of Puget Sound. These are only some of the many factors that have reduced the productivity of salmon in the Snohomish watershed. Additional impacts caused by the Cross Cascade pipeline must be evaluated in light of all of these other impacts that are already occurring.

**Q:** *Please describe the efforts of The Tulalip Tribes to enhance the fishery.*

**A:** Together with the state of Washington, the Tulalip Tribes share co-management responsibility and authority for proper management of the salmon and steelhead resource. The parties follow the guidelines set out in the Puget Sound Salmon Management Plan, which was agreed to in 1985 and adopted by the federal court. Before the salmon return, preliminary fishing levels are set to assure that sufficient numbers will escape the fishery to spawn naturally. When the runs arrive on the fishing grounds, the numbers are reassessed, and fisheries are adjusted accordingly. In general, this management has been successful when sufficient fish have been available for both harvest and escapement. In other

words, we do not often go below escapement goals if sufficient fish are present to allow the goals to be met.

Because of low predicted run sizes, many traditionally important fisheries of the Tulalip Tribes are not even opened at this time. For example, the fishery for chinook salmon in Port Gardner/Port Susan has not been opened by Tulalip since 1984. The coho-directed fishery in the same area was not opened in 1994 or 1996, and was at very low levels in 1995 and 1997. Fisheries for pink salmon are often not open either because of low forecasted pink salmon runs or to protect chinook salmon.

In order to maintain a semblance of traditional fishing activities in the face of declining abundance of wild stock Pacific salmon, the Tulalip Tribes operate a hatchery located on the reservation. The hatchery provides tribal members fishing opportunity on chinook, coho, and chum salmon in a small on-reservation fishing area. Fish produced by the Tulalip hatchery also augment non-Indian fisheries in Puget Sound as well as large intercepting Canadian fisheries. We use innovative mass-marking techniques to identify the hatchery fish in fisheries and natural spawning grounds in order to assure that the impact of our programs on wild stock production will be minimal.

**Q:**     *Please describe The Tulalip Tribes’s regulatory or management efforts to maintain or enhance the fishery.*



A: Under the Treaty of Point Elliott as interpreted in *US v Washington*, the Tulalip Tribes share co-management authority and responsibility with the State of Washington and the other treaty fishing tribes. In order to properly carry out these duties, the Tulalip Tribes participate in a myriad of processes, forums, and the like, in order to properly coordinate with all other management entities whose authorities can potentially affect the salmon resource.

The Tulalip Tribes are active participants in the Northwest Indian Fisheries Commission (NWIFC), through which the tribes coordinate their resource management efforts. I have been a NWIFC commissioner for 15 years and have served as an officer on this Commission for many of those years. Under the 1985 Pacific Salmon Treaty, the United States and Canada coordinate their salmon management activities in the Pacific Salmon Commission (PSC). I have served on the Southern Panel of the PSC since 1985, and recently served as chair of the panel. Within the United States, the Pacific Fishery Management Council (PFMC) sets salmon fishing regulations for mixed-stock ocean fisheries. Tulalip participates in PFMC deliberations relevant to salmon management, and uses that forum as the basis for negotiations with the other co-managers over all annual salmon fishing plans through the North of Falcon Process.

Recently, with the review of all salmon stocks' status by the National Marine Fisheries Service (NMFS), and the proposal to list Puget Sound chinook salmon as threatened, Tulalip has been an active participant with NMFS and the other co-

managers in developing comprehensive management plans for all salmon species and recovery plans for chinook salmon. Our staff is actively involved in developing Puget Sound wide harvest management and artificial production guidelines for chinook and coho salmon. We are also actively working with the other co-managers and local governments to develop recovery plans for chinook salmon specific to the Stillaguamish and Snohomish basins. We anticipate that these basin recovery plans will address other species once chinook salmon recovery plans are complete.

Our staff is also actively involved in collecting data and conducting research designed to improve our understanding of the salmon stocks and targeted towards improving management of these stocks. We have full-time staff dedicated to collection of basic size, age, and stock composition data from our fisheries. We mass-mark nearly all of our hatchery production and carry out data collection efforts designed to track these fish, both in the fishery and in natural spawning areas. We conduct research to determine optimal habitat improvement efforts, and we carry out specific habitat improvement projects based on the results of this research. For example, our staff conducted an inventory of culverts in the Stillaguamish system that were blocking coho salmon migration and then sought and received funds to remove some of the blockages that were identified thereby reopening habitat to coho salmon production. We are also involved in collecting basic life history information on salmon in the Snohomish system so that we can

better understand which habitats are most important to this species.

Because of the many actual and potential detrimental impacts to the salmon resource, the Tulalip Tribes participate in a large number of forums and processes with other governments, management entities, and private organizations to work out agreements and regulations that will result in effective fishery regulation and habitat protection and restoration. A list of these includes, but is not limited to: the Pacific Salmon Commission, the Pacific Fishery Management Council, planning and management under the Puget Sound Salmon Management Plan, the Tri-County salmon restoration process, development of recovery plans under the Endangered Species Act, implementation of the Interior/Commerce Secretarial Order, Timber Fish and Wildlife, and many others.

Because of the impending listing of chinook salmon under the Endangered Species Act, the Tulalip Tribes are actively involved in development of salmon recovery plans. We are developing a Tulalip Salmon Resource Management Plan which sets out the goals, objectives, and standards by which Tulalip will manage the salmon resource. Our staff actively participates in the writing of the Snohomish Salmonid Recovery Plan which is being developed under the auspices of the Tri-county process. Because of the critical status of much of the salmon resource, we are forced to spend a good deal of time and resources responding to state and federal actions and reviewing their regulations to assure that salmon habitat is adequately protected.

Examples of the costs of natural resource management to the Tulalip Tribes include: approximately \$250,000 per year for participation in the above forums and processes, approximately \$2,500,000 per year for harvest management, operation of the Tulalip Hatchery, habitat monitoring, and restoration projects, and approximately \$700,000 per year for studies of riparian functions and processes. These figures vary year-to-year and do not include all costs to the Tulalip Tribes for natural resource management.

**Q:**     *Please describe in general terms your knowledge of the Cross-Cascades Pipeline project as it relates to your testimony.*

My testimony concerning the pipeline project is based on my supervision of the Tribes’ environmental and natural resources department staff, which have a detailed knowledge of Olympic Pipe Line Company’s site certification applications, the project DEIS, and other direct knowledge of the impacts of the proposal. I am relying on my staff’s working knowledge of the impacts of the pipeline proposal on fish and habitat to present my testimony on the project’s impacts on salmon as it relates to tribal culture, employment and economics.

**Q:**     *Please describe the potential cultural impacts of pipeline construction and operation on the fishing interests of The Tulalip Tribes.*

A: The proposed pipeline crosses freshwater U&A areas of the Tulalip Tribes. These impacts are primarily described in the testimony of Kurt Nelson, Fish and Water Resources Scientist for the Tulalip Tribes, to be filed in this case. The proposal may affect fish migrating to and from the Tulalip U&A, thus impacting Tulalip interests. The proposed pipeline would cross approximately 43 significant streams within the Snohomish, Snoqualmie, and Skykomish River systems between Thrashers' Corners and Snoqualmie Pass. All of these streams are important to the Tulalip fishery. Many are known to contain significant anadromous fish runs. The remainder are tributaries of streams which contain anadromous fish runs, and impacts upon tributaries could impact streams containing the fishery. Although tribal fishermen now rely heavily on hatchery production as described above, a significant portion of the wild fish harvested by Tulalip fishermen is produced in these streams. The Tribes' treaty-protected fishing rights are threatened by the potentially devastating effects to the fishery and habitat from oil spills and construction associated with the proposed Cross Cascade Pipeline.

The Strait of Juan de Fuca is a known migration route for both adult returning salmon and outmigrating juveniles. The unique location of the Tulalip Tribes U&A areas gives them a right to harvest a portion of virtually every salmon run within Puget Sound. All of the stocks harvested are known to use the Strait of Juan de Fuca as a migration route. The Tulalip Tribes are concerned with harm to

these stocks from increased crude oil barge traffic to north Sound refineries as a result of the pipeline proposal.

In sum, the Cross Cascade Pipeline proposal presents a significant threat to the tribal fishery. It imposes an unreasonable risk to the dwindling wild stocks available to tribal fishermen. Oil spills from pipeline operation and project construction will likely result in habitat destruction and degradation, and a consequent reduction of the fish available for harvest and spawning.

Finally, it must be noted that spiritual bathing is an essential cultural practice for many Tulalip tribal members. Proper spiritual bathing requires that clean water be available in a variety of traditional bathing sites, including many throughout the Snohomish watershed. Clean, pure water is essential for spiritual bathing, and any contamination of this water with oil or other pollutants would render large areas unfit for spiritual bathing. Noise related to pipeline construction would also temporarily make many areas unfit for bathing.

***Q: Would increased crude oil tanker traffic to north Sound refineries have any impact to the fishery resources and habitat in the Snohomish basin?***

**A:** Increased crude oil tanker traffic to north Sound refineries could increase the potential for a marine oil spill with disastrous consequences to fish behavior, migration routes, food availability and habitat. This would have a direct negative effect on Tulalip fishing activities that take place near the tanker routes, such as

the fisheries on sockeye salmon and crab and shrimp conducted in the San Juan Islands and eastern Strait of Juan de Fuca. In addition, adult salmon migration to the Snohomish River could be severely affected, which would greatly affect local fisheries near Tulalip as well as increase the time it will take for the already depressed Snohomish salmon runs to rebuild.

***Q: Do the (revised) Site Certification Application or DEIS adequately describe the risks and impacts of pipeline construction or operation to the Tulalip tribal culture?***

**A:** The information in the revised Site Certification Application and DEIS do not adequately describe the risks and impacts of pipeline construction or operation to the cultural and economic significance of the fishery resource and habitat to the Tulalip Tribes. First, they do not assess the economic or cultural risks and impacts to tribal fisheries potentially affected by the project's 84 stream crossings. Second, they do not address the potential effects of a pipeline spill. These risks and impacts must be considered in the context of tribal culture and quality of life. Many proposed stream crossings are planned to occur in pristine areas that are not currently subject to a construction risk, or to a risk of spill from refined petroleum products. As has been demonstrated by the parties in this case and by state and federal environmental agencies, this project poses a significant potential for further habitat degradation and decline in fish runs. Considering the

cultural and economic interest of the Tribes and tribal members in maintaining or enhancing fish and habitat, described above, the project presents a significant risk to degradation of tribal cultural values and the overall economic health of tribal members.

***Q: Does the Application or DEIS adequately describe the impacts of pipeline construction or operation to public and private efforts to develop a salmon recovery plan under the ESA?***

**A:** The Site Certification Application and the project DEIS do not adequately describe the impacts of pipeline construction to public and private efforts to develop a salmon recovery plan under the ESA. The above discussion of cumulative impacts establishes that actual or potential impacts of pipeline construction must be considered in light of all other environmental impacts to the salmon resource. The salmon recovery plans we are working on consider environmental impacts in a cumulative fashion. Without full description of the impacts of the pipeline in this fashion, we cannot include these impacts in a salmon recovery plan.

More importantly, detrimental impacts of the Cross-Cascade pipeline will force other sectors to reduce their detrimental impacts to an even greater extent than they otherwise would under the recovery plan. This includes harvest opportunity, hatchery impacts, and habitat impacts. This requirement would make adoption of



a recovery plan agreeable to all parties, an already difficult proposition, even more difficult.

**END OF DIRECT TESTIMONY**

I declare under penalty of perjury that the above testimony is true and correct to the test of my knowledge. Executed this \_\_\_\_\_ day of February, 1999.

\_\_\_\_\_  
Terrance R. Williams

# EXHIBIT TRW-1

## Terrance R. Williams

7615 Totem Beach Road  
Marysville, Washington 98271

Phone 360-651-4471  
Fax 360-651-4490  
Email dwilliams@tgi.net

### SUMMARY

Management, Administration, Planning, Negotiations, and Organization with Tribes, Federal, State and local Governments, Utilities, Businesses, Industries, and Non-profit Organizations as well as on an international level. Consult with indigenous people in working with governments in response to bio-diversity in indigenous culture.

### WORK HISTORY

- 1982-Present*      *Executive Director of Fisheries and Natural Resources*  
Management of all Fisheries Department personnel and projects. Coordinate Department research and enhancement projects. Participate in all negotiations and litigation affecting the Tribes' treaty-reserved fishing rights
- 1984-Present*      *Commissioner, Northwest Indian Fisheries Commission*  
One of eight representatives selected by Puget Sound tribes to participate in all intertribal deliberations addressed through Commission proceedings. Direct Commission staff support services as assigned by Commission member tribes.
- 1985-Present*      *Southern Panel Member (vice-chair), Pacific Salmon Commission*  
Selected by Puget Sound tribes to represent the North Sound tribal interests in Pacific Salmon Commission annual deliberations. Participate in all preparation and negotiation sessions of the Southern Panel and the Pacific Salmon Commission. Results of these sessions provide for implementation and continued monitoring of the U.S.- Canada Salmon Interception Treaty.
- 1985-Present*      *Member, Timber, Fish and Wildlife Committee*  
Negotiated a cooperative agreement between fishery and wildlife resource managers and timber resource managers. The agreement, approved and entered, modifies timber practices to better protect fishery and wildlife resources while maintaining a viable timber resource.
- 1997-Present*      *Delegate, Biological Diversity Committee, The United Nations*  
Advise State Department on issues related to the 1992 agreement. Work with the United Nations on cultural sustainability and utilization of resources.
- 1997-Present*      *Co-chair, Indigenous Committee, International Association of Impact Assessments*  
Co-chair the indigenous committee of organization consisting of 92 participating nations to further develop areas of environment assessments. Indigenous section addresses indigenous participation in development of environmental assessments.
- 1995-1996*      *Director, American Indian Environmental Office, U.S. Environmental Protection Agency*  
Opened the first American Indian Environmental Office in Washington D.C. Helped develop the policy and protocol and developed Standard Operating Procedures utilized today. Developed Methodology for Federally Recognized Tribes within the United States to discuss Indian issues with the Environmental Protection Agency including developing access to congressional funding bases for federally recognized tribes.

## Terrance R. Williams

Page 2

### **WORK HISTORY, con't**

- 1985-1995*      *Member, Puget Sound Water Quality Authority*  
Chosen by the Governor of the State of Washington to represent 5 Counties in a process to develop the Puget Sound Water Quality Management Plan
- 1967-1969*      *Light Infantry Brigade, United States Army*  
Field support in Vietnam. *Obtained an Acting Sergeant rank.*

### **EDUCATION**

- 1979*      B.A. Law and Justice, Central Washington University
- 1978*      A.A. Criminology - Law Enforcement  
A.A. Automotive Technology  
Certificate, Washington State Emergency Medical Technician (EMT)

### **ACHIEVEMENTS**

- 1996*      *US EPA Appreciation Award*  
United States Environmental Protection Agency award, in appreciation for leading the American Indian Environmental Office in Washington D.C.
- 1995*      *Washington State Certificate of Appreciation*  
Selected by the Governor of the State of Washington to receive an award recognizing service as a member of the Water Resources Forum
- 1995*      *Water Conservation Award*  
Selected by the United States Department of the Interior to receive the Water Conservation Award for Innovative Partnership in the Water Resources Forum
- 1993 - Present*      *Duke University*  
Instructor - N.E.P.A Training.
- 1990*      *Washington State Certificate of Appreciation*  
Selected by the Governor of the State of Washington and the Washington Department of Ecology to receive an award recognizing service in Washington Wetlands Forum.
- 1988*      *Puget Sound Water Quality Authority Member*  
Appointed by the Governor of the State of Washington to serve as one of seven members in developing a plan to improve water quality conditions of the Puget Sound through Water Quality Authority proceedings.
- 1987*      *Washington State Environmental Excellence Award*  
Selected by the Governor of the State of Washington to receive an award recognizing dedication and contribution to improvement of the State's environmental quality.